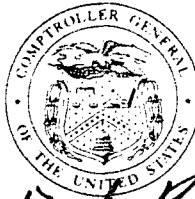


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DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

*[Protest of Bid Rejection as Nonresponsive]*

FILE: B-202630

DATE: April 20, 1981

MATTER OF: Consolidated Installations Corp.

DIGEST:

1. When it is clear from initial submission that protester has no chance of success on merits, GAO will reach decision without obtaining report from procuring agency.
2. Rejection of bid as nonresponsive for failing to furnish bid bond is proper since statement in bid bond requirement that failure to comply "may be cause for rejection" is just as compelling and material as if more positive language were employed.

Consolidated Installations Corp. (Consolidated) *[protests the rejection of its low bid under invitation for bids]* (IFB) DLA600-81-B-0071 issued by the Defense Fuel Supply Center, Alexandria, Virginia.

Where it is clear from the initial submission that a protester has no chance of success on the merits, we will reach a decision without obtaining a report from the procuring agency. W. M. Grace, Inc., B-197192, January 10, 1980, 80-1 CPD 33.

*[Consolidated's bid was rejected as nonresponsive for failure to submit a bid guarantee prior to bid opening.]*

The protester makes the following argument in support of its position that its bid should not have been rejected as nonresponsive:

"In this instance, I rely on standard form 22 'Instruction to Bidders' paragraph four (4) Bid

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Guarantee states: 'bid guarantee untimely received may, not must, be cause for bid rejection. This indicates to me that a judgment has to be made and in this instance, a savings to the tax payers would be \$13,734.00, if my bid were accepted."

Our Office has considered the issue raised here in prior decisions and [we have held that the failure to furnish a bid bond in accordance with the requirements of the invitation requires the rejection of the bid as nonresponsive.] We have held that the statement in the bid bond requirement that failure to comply "may be cause for rejection" is just as compelling and material as if more positive language were employed. See A. D. Roe Company, Inc., 54 Comp. Gen. 271 (1974), 74-2 CPD 194; Thorpe's Mowing, B-181154, July 17, 1974, 74-2 CPD 37. Therefore, [and in the absence of the applicability of any of the exceptions in Defense Acquisition Regulation] § 10-102 (1976 ed.), [the protester's bid was properly rejected as nonresponsive.]

Further, we have stated that [maintenance of the competitive bid procedure required by law is more in the public interest than obtaining a pecuniary advantage in a particular case by violation of the rules.] 17 Comp. Gen. 554, 558-559 (1938).

[The protest is summarily denied.]

*Milton J. Aroslan*

Acting Comptroller General  
of the United States